

POLICY NUMBER: 45.1

SUBJECT: DHH OVERTIME POLICY

CONTENT: Policy and Procedures for Overtime Compensation

EFFECTIVE DATE: Issued: January 29, 1998
Revised: April 4, 2011

INQUIRIES TO: Office of Management and Finance
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DHH OVERTIME POLICY

I. POLICY STATEMENT

It shall be the policy of the Department of Health and Hospitals (DHH) to manage overtime in accordance with the Fair Labor Standards Act (FLSA), Civil Service rules and the provisions of this policy. Overtime shall be administered uniformly and without regard to race, national origin, religion or other non-merit factors. All employees shall comply with the provisions of the FLSA which takes precedence over this policy, state law and Civil Service Rules.

Reference is made to the Fair Labor Standards Act, Civil Service rules, Division of Administration (DOA) Travel Policies and Procedures and DHH Travel Regulations (Policy #10).

II. APPLICABILITY

This policy shall apply only to classified employees of DHH. An Executive Order issued by the Governor provides rules applicable to certain unclassified employees. The DHH Student Employee Policy #36 provides information relevant to unclassified students.

III. I M P L E M E N T A T I O N

The effective date of this policy is January 29, 1998.

The appointing authorities for each office, region, and facility within DHH and managers with delegated authority shall be responsible for implementing this policy within their jurisdiction, prudently managing the work of staff in order to lessen the need for overtime, maintaining records of overtime on employees under their supervision and for certifying the accuracy of such records.

IV. DEFINITIONS

A. Exempt employees

Exempt employees are those employees who meet the executive, administration, professional, computer, or special exemption requirements outlined in the FLSA and, therefore, are not entitled to overtime compensation under the FLSA. (Exempt employees may, however, be compensated for overtime hours in accordance with Civil Service Rules and the provisions of this policy.)

B. Nonexempt employees

Nonexempt employees are those employees who do not meet the exemption requirements outlined in the FLSA and, therefore, must be compensated at a rate of not less than time and on-half for overtime hours actually worked.

NOTE: Please refer to DHH Policy #49 to determine an employee's exemption status if unknown.

V. POLICY PROVISIONS

A. Appointing authorities or division directors/facility department managers or supervisors with delegated authority may require an employee to work overtime when necessary.

1. Supervisors shall notify affected employees of the need to work overtime as far in advance as possible.
2. Supervisors retain the right to schedule overtime hours for employees as needed, including calling in employees in order to provide services or conduct business operations.
3. Supervisors have the authority to discipline employees who refuse to work overtime.

B. Prior Approval of Overtime

1. No employee shall work overtime without prior approval unless a critical, or emergency situation exists. If an employee believes a situation to be critical or of an emergency nature and a supervisor/manager cannot be reached, the employee must submit for approval/disapproval written documentation of the event and justification for overtime to the supervisor as soon as possible. Each situation will be evaluated on an individual basis.
2. To be in compliance with FLSA, a nonexempt employee must be compensated for all hours worked, authorized and unauthorized, of which the supervisor is aware.
3. To lessen an office's/facility's financial liability, a supervisor may discipline an employee (exempt or nonexempt) who works overtime without prior authorization including situations provided for in subsection B. 1 .which are disapproved.

C. Justification of Overtime

Requests by employees for overtime may be approved if sufficient justification is submitted in writing prior to the date of overtime work. Such requests shall be directed to a supervisor with delegated authority, facility department manager/division director or appointing authority. Some acceptable conditions for granting overtime requests include but are not limited to:

1. excessive workload;
2. special projects;
3. high vacancy rates;
4. high absenteeism rates;
5. holiday and/or vacation coverage; or
6. emergency situation.

D. Compensation for Overtime

The appointing authority shall select the type of compensation (cash payment or compensatory leave) or no compensation in accordance with the FLSA and Civil Service Rules Chapter 21.

E. State as Single Employer

1. According to the U.S. Department of Labor, Wage and Hour Division (1994), the various agencies of the Louisiana state government are considered to be a single employer for overtime purposes under the FLSA.
2. The agency assumes overtime liability when a nonexempt employee works in excess of forty hours in any given work week (or in excess of eight hours per day and in excess of eighty hours in a fourteen day, eighty hour work period (8/80) as allowed by the FLSA), regardless of the agency for which the preceding work is performed.
3. Overtime costs should be considered when hiring a nonexempt employee who is also employed by another state agency. Extreme caution should be exercised to prevent a DHH office/facility from being placed in a position of costly and complicated overtime liability.
4. An employee with dual state employment may be subject to non-disciplinary removal under Civil Service Rule 12.6 (c).

F. Conferences

1. Overtime shall be approved for attending mandatory work related conventions, conferences, seminars, workshop, etc.
2. Overtime may be approved for attending voluntary work related conventions, conferences, seminars, workshops, etc.
3. Overtime shall not be approved for social activities in relation to conventions, conferences, seminars, workshops, etc.

G. Travel

Compensation for travel shall be in accordance with the FLSA, DOA Travel Policies and Procedures, DHH Travel Regulations (Policy #10) Civil Service Rules, and the provisions of this policy.

1. Exempt employees

a. Commute time

- (1) Overtime shall not be granted for commute time. Normal travel to and from home is not working time; therefore, an exempt employee is not entitled to compensation for such travel time.

This is true whether the employee works at a fixed location or at different job sites.

NOTE: An employee who is required to return to his/her duty station while on-call may be eligible to receive overtime compensation for all or part of his/her commute time. Please refer to DHH Policy Number 50 and the respective Office (OBH, OPH, etc.) on-call procedures.

- (2) If an exempt employee is required to report to a meeting place to pick up materials, equipment or other employees before traveling to the work site, compensable time may start at the meeting place.

b. Out-of-town travel for a day

Overtime may be approved if an exempt employee travels on a normal working day for the employer's benefit and at its request. The employer may exclude a portion of the total travel time as normal home-to-work commuting time.

c. Overnight travel

- (1) Overtime may be approved if an exempt employee must travel outside of regular working hours on a regular working day for the employer's benefit and at its request when travel extends overnight.
- (2) Overtime may be approved if an exempt employee must travel on a non-working day for the employer's benefit and at its request when travel extends overnight.
- (3) The employer may exclude a portion of the travel time as normal home-to-work commuting time when travel extends overnight.

d. Transportation furnished by the employer

- (1) An exempt employee who uses a state car is not entitled to overtime compensation for normal commuting time.
- (2) If an exempt employee is offered public transportation, but requests and is granted permission to drive his/her private vehicle or state car, the employer shall count as total hours worked either the actual travel time or the time that would have been taken if public transportation had been used, whichever is less.

e. Working while traveling

- (1) Overtime shall not be approved for working while traveling except as provided for in this policy.

- (2) Bona fide meal periods are not considered work time when traveling.

2. Nonexempt employees

- a. Nonexempt employees shall be afforded at least the same benefits as those afforded exempt employees under this policy and more if provided for in the FLSA.
- b. The respective Human Resources office should be contacted for information/guidance concerning each situation which requires a nonexempt employee to travel outside normal working hours.

VI. PROCEDURES

- A. Upon employment, employees shall be asked to sign a statement of agreement or understanding of compensation for overtime worked (Attachment I).
- B. Requests for overtime identified in this policy shall be submitted on a standard Request for Overtime form (copy attached) or through the electronic leave/attendance system provided through LEO (Louisiana Employees Online).
- C. Normal requests for overtime shall only require the approval of one of the following:
 1. appointing authority;
 2. department manager/division director; or
 3. supervisor with delegated authority.
- D. Exceptions to the DHH Overtime Policy require approval of all of the following:
 1. appointing authority;
 2. Assistant Secretary; and,
 3. Deputy Secretary or Undersecretary.
- E. Exceptions and/or special pay provisions provided for in Civil Service Rules require approval of all of the following:
 1. appointing authority;
 2. Assistant Secretary; and,
 3. Civil Service Commission if required by Civil Service Rules.
- F. Appointing authorities may issue written blanket approvals for paid overtime by clearly stating the classes of employees covered by the blanket approval and the circumstances under which paid overtime is authorized.

REQUEST FOR OVERTIME

EMPLOYEE NAME (Print) _____ ISIS ID # _____

Job Class _____ Pay Level _____ Exempt/Non-exempt _____

Office/Unit _____ Pers Area _____ CC# _____

of Hours _____ Date _____:_____ am _____:_____ pm to _____:_____ am
pm

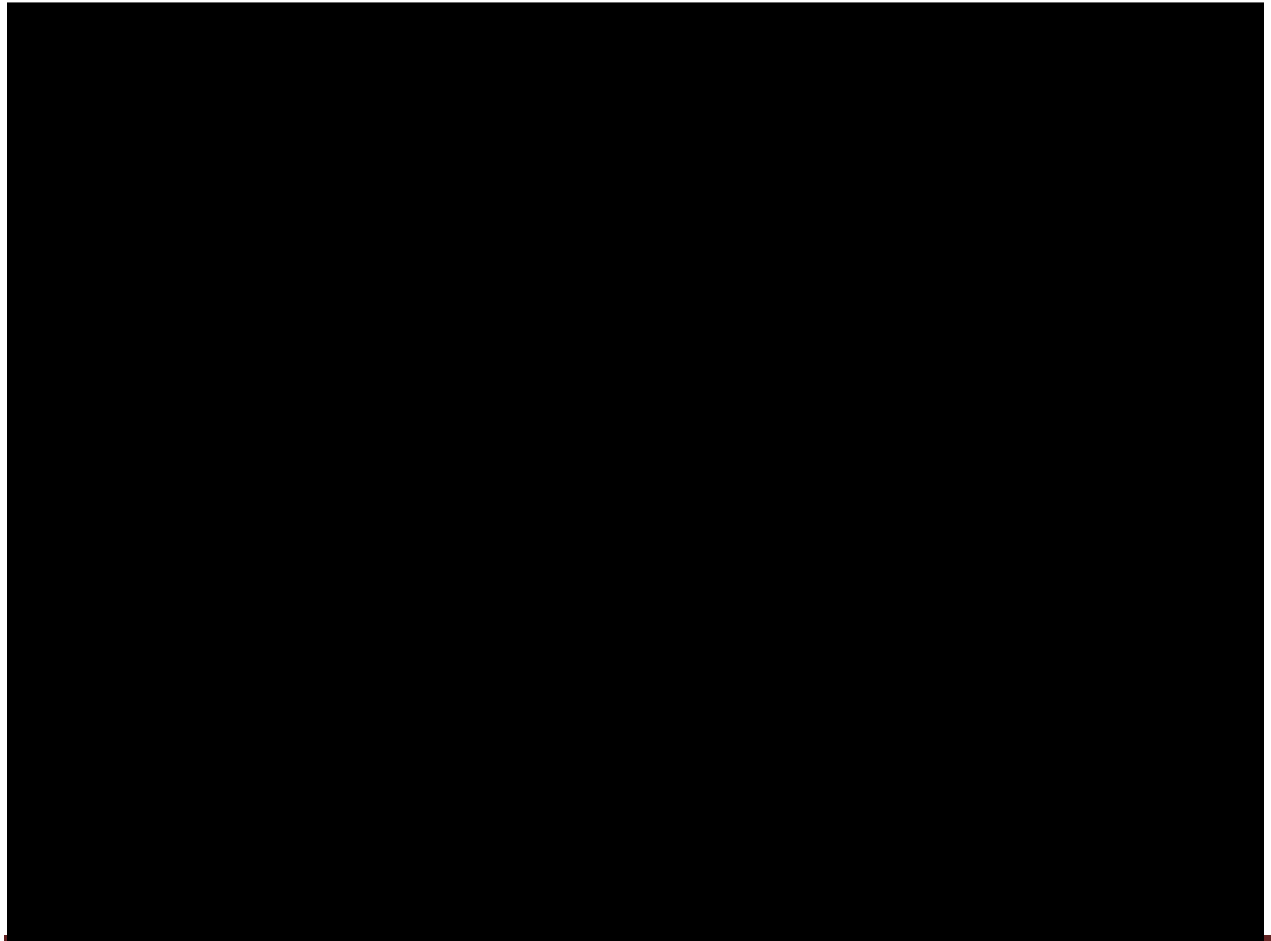
JUSTIFICATION (Why overtime is necessary; what duties will be performed; why work cannot be performed during normal working hours.)

Employee's Signature _____ Date _____

Supervisors Signature _____ Date _____

Dept. Mgr's/DivDir's Signature _____ Title _____

_____ [] Approved
Date [] Disapproved



EXAMPLE
(Attachment 1)

STATEMENT OF AGREEMENT OR UNDERSTANDING

Re: Compensation for Overtime Work

I, _____, understand that agencies of the State of Louisiana have the option of granting compensatory leave for overtime hours worked. In cases where the Fair Labor Standards Act applies, such leave will be credited to me at the rate of one and on-half hours for each hour of overtime worked. For overtime hours worked during weeks when leave is taken (with or without pay) or when holidays are observed, the agency may opt to use straight time cash payments or hour-for-hour compensatory leave in accordance with the rules of the Department of Civil Service.

I also understand that upon separation I will be paid for any time and on-half compensatory leave earned for overtime as required by the Fair Labor Standards Act. Other straight hour-for-hour compensatory leave may or may not be paid upon separation in accordance with the applicable state Civil Service Rules.

I have read the above and agree to accept compensatory leave as compensation for overtime work.

Signed:

Date: